



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

October 11, 2012

Mr. Nick Lealos  
Staff Attorney  
Office of Legal Counsel  
Legal Section  
Texas Department of Insurance  
P.O. Box 149104, MC110-1A  
Austin, Texas 78714-9104

OR2012-16292

Dear Mr. Lealos:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 470490 (TDI # 131060).

The Texas Department of Insurance (the "department") received a request for a complaint. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes. You claim section 552.101 in conjunction with section 36.252 of the Insurance Code, which provides as follows:

(a) Information or material acquired by the department that is relevant to an investigation is not a public record for the period that the department determines is relevant to further or complete an investigation.

(b) Investigation files are not open records for purposes of [the Act], except as specified herein.

Ins. Code § 36.252. Section 36.251 of the Insurance Code provides that for purposes of section 36.252, "investigation file"

means any information collected, assembled, or maintained by or on behalf of the department with respect to an investigation conducted under [the

Insurance Code] or other law. The term does not include information or material acquired by the department that is:

(1) relevant to an investigation by the insurance fraud unit; and

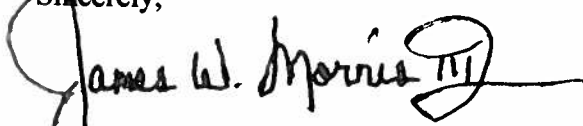
(2) subject to Section 701.151 [of the Insurance Code].

*Id.* § 36.251. You state the submitted information is relevant to a pending investigation by the department. You explain the information is contained in a pending case file in the department's enforcement section. You do not indicate the complaint is relevant to an investigation by the department's insurance fraud unit. Based on your representations and our review, we conclude the submitted information is confidential under section 36.252 of the Insurance Code and must be withheld on that basis under section 552.101 of the Government Code until such time as the department determines the information is no longer relevant to further or complete its investigation.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, reading "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and a stylized "M".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/bhf

Ref: ID# 470490

Enc: Submitted documents

c: Requestor  
(w/o enclosures)